

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-218039.2

DATE: June 12, 1985

MATTER OF: American Contract Services

DIGEST:

GAO will not consider a protest that an agency grant an extension of time for processing a Certificate of Competency application in the absence of showing that the contracting officer's decision may have been made fraudulently or in bad faith.

American Contract Services protests the award by the Air Force of a contract for audiovisual and graphics services to any other firm before June 20, 1985 under invitation for bids (IFB) No. F05600-84-B-0037. We dismiss the protest.

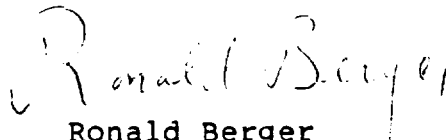
American states that the award should be delayed until June 20, to enable it to provide information to the Small Business Administration (SBA) so that agency can further consider the protester's application for a Certificate of Competency (COC). American argues that since it complied with the Air Force's request that it extend its bid acceptance period until June 20, the Air Force should not make award until that date.

The regulations provide that when a contracting officer determines that a small business concern is not a responsible, prospective contractor, the contracting officer must withhold award and refer the matter to the SBA, the agency authorized by statute, 15 U.S.C. § 637(b) (7) (1982), to certify conclusively all elements of a small business concern's responsibility. Federal Acquisition Regulation (FAR), 48 C.F.R. § 19.602-1(a) (1984). The regulations provide further that the SBA will take specific actions in response to a COC referral within 15 business days, unless the SBA and the contracting agency agree to a longer period. 48 C.F.R. § 19.602-2(a). If the SBA has not issued a COC within the 15-day (or longer, if agreed to) period, the contracting officer is free to award the

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contract to another firm. 48 C.F.R. § 19.602-4(c). Thus, by requiring that the award be withheld and providing for an expeditious COC determination, the regulations seek to balance the interest of the small business concern in obtaining an independent review of its ability to perform the contract with the interest of the government in proceeding with the acquisition. Here, since the SBA informed the protester on May 22 that it could not at that time issue a COC, if the required 15-day period had not expired by that date it surely will have expired before June 20. Thus, the agency would have to agree to withhold award until June 20.

The granting of an extension for filing or processing a COC application is a matter within the contracting agency's discretion; the bidder's interests are not controlling. See, e.g., Greenbrier Industries, Inc., B-191380, Apr. 24, 1978, 78-1 CPD ¶ 315; Solar Laboratories Inc., B-180920, June 26, 1974, 74-1 CPD ¶ 347. Since the matter is a discretionary one, we will not review a protest that the procuring agency must withhold award for a period longer than 15 days unless the protester shows that the contracting officer's failure to grant an extension may have been based on fraud or bad faith. Lasanta Sportswear, Inc., B-218893, B-218893.2, June 3, 1985, 85-1 CPD ¶ _____. Since the protester has made no such showing here, we dismiss the protest.


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